

State of California
AIR RESOURCES BOARD

Second Notice of Public Availability of Modified Text and Additional Documents

PUBLIC HEARING TO CONSIDER ADOPTING THE AIRBORNE TOXIC CONTROL
MEASURE FOR STATIONARY COMPRESSION IGNITION ENGINES

Public Hearing Dates:	November 20, 2003 December 11, 2003 February 26, 2004
Internet Posting Date of Second Notice:	July 1, 2004
Public Availability of Second Notice:	July 1, 2004
Deadline for Public Comment on Second Notice:	July 16, 2004

This notice announces a second supplemental period in which the public may comment on additional modifications being proposed for the “Airborne Toxic Control Measure for Stationary Compression Ignition Engines” and on additional documents that are being added to the rulemaking record in support of the proposed action. No action by any member of the public is necessary unless the person wishes to comment on the additional modifications or additional documents.

At its public hearing on February 26, 2004, the Air Resources Board (the “Board” or ARB) approved the adoption of section 93115, title 17, California Code of Regulations (CCR). The approved section 93115 is an airborne toxic control measure (ATCM) for stationary compression ignition engines. This rulemaking was originally heard on November 20, 2003, continued to December 11, 2003, and continued again to February 26, 2004, to provide for the required review directed by Executive Order S-2-03.

The originally proposed regulatory action is described in detail in the “Staff Report: Initial Statement of Reasons for Proposed Rulemaking” (Staff Report) released to the public on September 26, 2003, and available on the ARB’s Internet site at www.arb.ca.gov/regact/statde/statde.htm.

The ATCM will reduce the public’s exposure to diesel particulate matter (diesel PM), other toxic air contaminants (TACs), and other air pollutants by establishing best available control technology (BACT), which includes emission standards and operational requirements, for stationary compression ignition engines that operate in California, particularly diesel-fueled engines. The ATCM supports the “Risk Reduction Plan to Reduce Particulate Matter Emissions from Diesel-Fueled Engines and Vehicles,” which was adopted by the Board on September 30, 2000.

The Board's Action

At the public hearing on February 26, 2004, the Board adopted Resolution 03-30 (Resolution), approving the adoption of the ATCM with modifications. In approving the proposed ATCM, the Board specifically included staff's suggested modifications to the initially noticed text, which were made available at the hearing. The suggested modifications were appended to the Resolution. In the Resolution, the Board directed the Executive Officer to incorporate the approved modifications into the proposed regulatory text, along with such other conforming modifications as may be appropriate, and to make such modifications available for a supplemental comment period of at least 15 days. Staff made the modifications available for public review and comment through a notice of modified text released on May 14, 2004, with a 15-day supplemental comment deadline of June 1, 2004 ("first notice of modified text"). The first notice of modified text and the Resolution are available on the ARB's Internet site at www.arb.ca.gov/regact/statde/statde.htm.

Second Set of Proposed Modifications Being Made Available

Several written comments were received during the initial 15-day comment period specifically addressing the proposed modifications. In response to these comments, staff is proposing additional substantive modifications to the regulatory text ("second set of proposed modifications").

The second set of proposed modifications are discussed below and are set forth in detail in the document appended to this notice as the Attachment. As shown in the first notice of modified text, additions to the initially noticed regulatory text in the Staff Report are denoted by **bold underline** and deletions by ~~**bold underline**~~. The staff's second set of proposed modifications are denoted by **bold double underline** for additions and by ~~**bold double underline**~~ for deletions.

The Attachment may be downloaded from ARB's Internet website at www.arb.ca.gov/regact/statde/statde.htm. If you would like a hardcopy of the Attachment sent to you through postal mail, please call Ms. Linda Keifer at (916) 322-4011 and give your name, company name, and mailing address.

Summary of Second Set of Proposed Modifications

The following is a summary of the second set of proposed substantive modifications and staff's rationale for making them:

Title 17, CCR, Section 93115(c) Exemptions

New Agricultural Engines: Staff modified the exemption for new stationary CI engines used in agricultural operations to include an exemption from the recordkeeping and reporting requirements for owners and operators of new agricultural engines. This reflects staff's original intent to require the sellers of new agricultural engines to meet

the recordkeeping and reporting requirements, rather than placing that burden on the owners and operators of such engines.

Low-Use Prime Engines: Staff modified the exemption for low-use prime engines to apply this exemption to all combustion gas turbine starter engines, which includes cogeneration gas turbine starter engines.

Title 17, CCR, Section 93115(d) Definitions

Cogeneration Gas Turbine Engine: Staff replaced this term with “Combustion Gas Turbine Engine” in support of the modification made to the Low-Use Prime Engine Exemption (see above).

Interruptible Service Contract (ISC): Staff modified this definition to allow for ISC engines to be operated in the event of a transmission emergency.

Maintenance and Testing: Staff modified this definition to clarify that the operation of an emergency standby engine to provide power to a facility when a utility distribution company is performing preventative maintenance on its power distribution equipment is to be classified as a maintenance and testing operation and not emergency operation.

Rated Brake Horsepower: Staff modified this definition to specify the method by which this value would be determined for in-use and new engines.

Rolling Blackout Reduction Program (RBRP): Staff modified this definition to allow for the RBRP to be implemented in the event of a transmission emergency.

Transmission Constrained Area and Transmission Emergency. Staff added these definitions in support of the modifications made to the Rolling Blackout Reduction Program and Interruptible Service Contract definitions (see above).

Title 17, CCR, Section 93115(e) Requirements

All Engines: Fuel and Fuel Additive Requirements. Staff added a new subsection that prohibits the owner or operator of an in-use emergency standby engine from adding after January 1, 2006, any fuel to an engine’s fuel tank that does not meet specified requirements.

New and In-Use Emergency Engines: Demand Response Programs (DRPs). Staff modified the initial compliance date for in-use DRP engines enrolled in an ISC prior to January 1, 2005, extending it from July 1, 2005 to January 1, 2006.

Recordkeeping, Reporting, and Monitoring Requirements: Reporting Requirements for Emergency Standby Engines. Staff clarified that the requirement to log the hours of operation to comply with NFPA-25 provisions applies only if NFPA-25

applies to the engine. Staff also added fuel purchase recordkeeping requirements for owners and operators of in-use emergency standby diesel-fueled engines.

Title 17, CCR, Sections 93115(f) and (g) Compliance Schedules

Compliance Schedules. Staff modified the compliance schedule for owners and operators of four or more engines located within the District. The original initial compliance requirement (25 percent) was deleted. As modified, the 50 percent compliance requirement for pre-1989 through 1989 engines is now the initial compliance requirement, but its compliance date has not changed. That is, the 50 percent requirement for engines to be in compliance by January 1, 2007, remains unchanged from the same percent requirement and compliance deadline that was originally proposed in the Staff Report.

In addition to the modifications detailed in the Attachment, staff made other minor modifications throughout the regulatory text to improve clarity; to correct spelling, typographical errors, and grammar; to make numbering adjustments; and to correct citations and references.

Supporting Documents and Information. In accordance with Government Code section 11347.1, staff has added the following documents that support the proposed action:

- Common Cost Information
- In-Use Emergency Standby Engine Cost Estimates
- In-Use Prime Engine Cost Estimates
- Time Corrected Cost Estimates
- New Prime and Emergency Standby Cost Estimates

These documents are the electronic spreadsheets in Microsoft Excel format that were used in the detailed cost analysis shown in the Staff Report. By this notice, the modified regulation and additional documents and information are being made available for public comment prior to the final action by the Board's Executive Officer. All of the documents referenced above are available for public inspection from the Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, 1st Floor, Sacramento, California, 95814. They are also available on line at <http://www.arb.ca.gov/regact/statde/statde.htm>.

Comments and Subsequent Action

In accordance with section 11346.8 of the Government Code, the Board directed the Executive Officer to adopt section 93115, title 17, CCR after making the modified regulatory language available to the public for a supplemental written comment period of at least 15 days. The Board further provided that the Executive Officer shall consider such written comments as may be submitted during this period, shall make such modifications as may be appropriate in light of comments received, and shall present the regulations to the Board for further consideration if she determines that this is warranted.

Written comments on the modifications approved by the Board must be submitted by postal mail, electronic mail, or facsimile as follows:

Postal mail is to be sent to:

Clerk of the Board
Air Resources Board
1001 "I" Street, 23rd Floor
Sacramento, California 95814

Electronic mail must be sent to: statde@listserv.arb.ca.gov

Facsimile submissions must be transmitted to the Clerk of the Board at (916) 322-3928.

In order to be considered by the Executive Officer, comments must be directed to the ARB in one of the three forms described above and received by ARB by 5:00 p.m., on the deadline date for public comment listed at the beginning of this notice. Only comments relating to the above-described modifications to the text of the regulation (i.e., the second set of modifications) shall be considered by the Executive Officer.

If you have a disability-related accommodation need, please go to <http://www.arb.ca.gov/html/ada/ada.htm> for assistance or contact the ADA Coordinator at (916) 323-4916. If you are a person who needs assistance in a language other than English, please go to <http://inside.arb.ca.gov/as/eeo/languageaccess.htm> or contact the Bilingual Coordinator at (916) 324-5049. TTY/TDD/Speech-to-Speech users may dial 7-1-1 for the California Relay Service.

Attachment (1)